

By Senator Hill

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1 A bill to be entitled
2 An act relating to unemployment compensation; amending
3 s. 443.036, F.S.; defining the terms "agency" and
4 "member of the individual's immediate family";
5 amending s. 443.091, F.S.; conforming a cross-
6 reference; revising the requirements for eligibility
7 to receive benefits; prohibiting a determination of
8 ineligibility based solely on the fact that the
9 individual is available only for part-time work;
10 amending s. 443.101, F.S.; revising the definition of
11 the term "good cause"; prohibiting a determination of
12 ineligibility based solely on the fact that the
13 individual is available only for part-time work;
14 amending ss. 443.1216 and 443.131, F.S.; conforming
15 cross-references; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 443.036, Florida Statutes, is amended to
20 read:

21 443.036 Definitions.—As used in this chapter, the term:

22 (1) "Able to work" means physically and mentally capable of
23 performing the duties of the occupation in which work is being
24 sought.

25 (2) "Agency" means the Agency for Workforce Innovation.

26 (3)~~(2)~~ "Agricultural labor" means any remunerated service
27 performed:

28 (a) On a farm, in the employ of any person, in connection
29 with cultivating the soil or in connection with raising or

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30 harvesting any agricultural or horticultural commodity,
31 including the raising, shearing, feeding, caring for, training,
32 and management of livestock, bees, poultry, and fur-bearing
33 animals and wildlife.

34 (b) In the employ of the owner or tenant or other operator
35 of a farm in connection with the operation, management,
36 conservation, improvement, or maintenance of such farm and its
37 tools and equipment, or in salvaging timber or clearing land of
38 brush and other debris left by a hurricane if the major part of
39 the service is performed on a farm.

40 (c) In connection with the production or harvesting of ~~any~~
41 ~~commodity defined as an agricultural commodity~~ as defined in s.
42 15(f) in s. 15(g) of the Agricultural Marketing Act, as amended,
43 ~~(46 Stat. 1550, s. 3; 12 U.S.C. s. 1141j)~~; the ginning of
44 cotton; or the operation or maintenance of ditches, canals,
45 reservoirs, or waterways, not owned or operated for profit, used
46 exclusively for supplying and storing water for farming
47 purposes.

48 (d)1. In the employ of the operator of a farm in handling,
49 planting, drying, packing, packaging, processing, freezing,
50 grading, storing, or delivering to storage or to market or to a
51 carrier for transportation to market, in its unmanufactured
52 state, any agricultural or horticultural commodity, but only if
53 the operator produced more than one-half of the commodity for
54 which the service is performed.

55 2. In the employ of a group of operators of farms, or a
56 cooperative organization of which the operators are members, in
57 the performance of service described in subparagraph 1., but
58 only if the operators produced more than one-half of the

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59 commodity for which the service is performed.

60 3. Subparagraphs 1. and 2. do not apply to service
61 performed in connection with commercial canning or commercial
62 freezing or in connection with any agricultural or horticultural
63 commodity after its delivery to a terminal market for
64 distribution for consumption or in connection with grading,
65 packing, packaging, or processing fresh citrus fruits.

66 (e) On a farm operated for profit if the service is not in
67 the course of the employer's trade or business.

68 (4)~~(3)~~ "American aircraft" means an aircraft registered
69 under the laws of the United States.

70 (5)~~(4)~~ "American employer" means:

71 (a) An individual who is a resident of the United States.

72 (b) A partnership, if two-thirds or more of the partners
73 are residents of the United States.

74 (c) A trust, if each of the trustees is a resident of the
75 United States.

76 (d) A corporation organized under the laws of the United
77 States or of any state.

78 (6)~~(5)~~ "American vessel" means a ~~any~~ vessel documented or
79 numbered under the laws of the United States. The term includes
80 a ~~any~~ vessel that is not ~~neither~~ documented or numbered under
81 the laws of the United States or a, ~~nor documented under the~~
82 ~~laws of any~~ foreign country, if its crew is employed solely by
83 one or more citizens or residents of the United States or
84 corporations organized under the laws of the United States or ~~of~~
85 any state.

86 (7)~~(6)~~ "Available for work" means actively seeking and
87 being ready and willing to accept suitable employment.

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88 (8)~~(7)~~ "Base period" means the first four of the last five
89 completed calendar quarters immediately preceding the first day
90 of an individual's benefit year.

91 (9)~~(8)~~ "Benefits" means the money payable to an individual,
92 as provided in this chapter, for his or her unemployment.

93 (10)~~(9)~~ "Benefit year" means, for an individual, the 1-year
94 period beginning with the first day of the first week for which
95 the individual first files a valid claim for benefits and,
96 thereafter, the 1-year period beginning with the first day of
97 the first week for which the individual next files a valid claim
98 for benefits after the termination of his or her last preceding
99 benefit year. Each claim for benefits made in accordance with s.
100 443.151(2) is a valid claim ~~under this subsection~~ if the
101 individual was paid wages for insured work in accordance with s.
102 443.091(1)(g) and is unemployed ~~as defined in subsection (43)~~ at
103 the time of filing the claim. However, the agency ~~for Workforce~~
104 ~~Innovation~~ may adopt rules providing for the establishment of a
105 uniform benefit year for all workers in one or more groups or
106 classes of service or within a particular industry if the agency
107 determines, ~~after notice to the industry and to the workers in~~
108 ~~the industry and an opportunity to be heard in the matter,~~ that
109 those groups or classes of workers in a particular industry
110 periodically experience unemployment resulting from layoffs or
111 shutdowns for limited periods of time.

112 (11)~~(10)~~ "Calendar quarter" means each period of 3
113 consecutive calendar months ending on March 31, June 30,
114 September 30, and December 31 of each year.

115 (12)~~(11)~~ "Casual labor" means labor that is occasional,
116 incidental, or irregular, not exceeding 200 person-hours in

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117 total duration. As used in this subsection, the term "duration"
118 means the period of time from the commencement to the completion
119 of the particular job or project. Services performed by an
120 employee for an ~~his or her~~ employer during ~~a period of~~ 1
121 calendar month or any 2 consecutive calendar months, ~~however,~~
122 are deemed to be casual labor only if the service is performed
123 on 10 or fewer calendar days, regardless of whether those days
124 are consecutive. If any of the services performed by an
125 individual on a particular labor project are not casual labor,
126 each of the services performed by the individual on that job or
127 project may not be deemed casual labor. Services must constitute
128 casual labor and may not be performed in the course of the
129 employer's trade or business in order for those services to be
130 exempt under this section.

131 (13) ~~(12)~~ "Commission" means the Unemployment Appeals
132 Commission.

133 (14) ~~(13)~~ "Contributing employer" means an employer who is
134 liable for contributions under this chapter.

135 (15) ~~(14)~~ "Contribution" means a payment of payroll tax to
136 the Unemployment Compensation Trust Fund ~~which is required under~~
137 ~~this chapter~~ to finance unemployment benefits.

138 (16) ~~(15)~~ "Crew leader" means an individual who:

139 (a) Furnishes individuals to perform service in
140 agricultural labor for another person.

141 (b) Pays, ~~either~~ on his or her own behalf or on behalf of
142 the other person, the individuals furnished by him or her for
143 the service in agricultural labor performed by those
144 individuals.

145 (c) Has not entered into a written agreement with the other

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146 person under which the individual is designated as an employee
147 of the other person.

148 (17)~~(16)~~ "Earned income" means gross remuneration derived
149 from work, professional service, or self-employment. The term
150 includes commissions, bonuses, back pay awards, and the cash
151 value of all remuneration paid in a medium other than cash. The
152 term does not include income derived from invested capital or
153 ownership of property.

154 (18)~~(17)~~ "Educational institution" means an institution,
155 except for an institution of higher education:

156 (a) In which participants, trainees, or students are
157 offered an organized course of study or training designed to
158 transfer to them knowledge, skills, information, doctrines,
159 attitudes, or abilities from, by, or under the guidance of, an
160 instructor or teacher;

161 (b) Which ~~That~~ is approved, licensed, or issued a permit to
162 operate as a school by the Department of Education or other
163 governmental agency that is authorized within the state to
164 approve, license, or issue a permit for the operation of a
165 school; and

166 (c) Which ~~That~~ offers courses of study or training which
167 are academic, technical, trade, or preparation for gainful
168 employment in a recognized occupation.

169 (19)~~(18)~~ "Employee leasing company" means an employing unit
170 that has a valid and active license under chapter 468, and that
171 maintains the records required by s. 443.171(5), and produces,
172 ~~in addition, is responsible for producing~~ quarterly reports
173 concerning the clients and the internal staff of the employee
174 leasing company ~~and the internal staff of the employee leasing~~

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175 ~~company~~. As used in this subsection, the term "client" means a
176 party who has contracted with an employee leasing company that
177 provides ~~to provide a worker, or workers,~~ to perform services
178 for the client. Leased employees include employees subsequently
179 placed on the payroll of the employee leasing company on behalf
180 of the client. An employee leasing company must notify the tax
181 collection service provider within 30 days after the initiation
182 or termination of the company's relationship with a ~~any~~ client
183 company under chapter 468.

184 (20) ~~(19)~~ "Employer" means an employing unit subject to this
185 chapter under s. 443.1215.

186 (21) ~~(20)~~ "Employing unit" means an individual; an ~~or type~~
187 ~~of~~ organization, including a partnership, limited liability
188 company, association, trust, estate, joint-stock company,
189 insurance company, or corporation, whether domestic or foreign;
190 the receiver, trustee in bankruptcy, trustee, or successor of
191 any of the foregoing; or the legal representative of a deceased
192 person, who ~~which~~ has or had in his or her ~~its~~ employ one or
193 more individuals performing services for it within this state.

194 (a) Each individual employed to perform or to assist in
195 performing the work of any agent or employee of an employing
196 unit is deemed to be employed by the employing unit ~~for the~~
197 ~~purposes of this chapter,~~ regardless of whether the individual
198 was hired or paid directly by the employing unit or by an agent
199 or employee of the employing unit, if the employing unit had
200 actual or constructive knowledge of the work.

201 (b) Each individual performing services in this state for
202 an employing unit maintaining at least two separate
203 establishments in this state is deemed to be performing services

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204 for a single employing unit ~~for the purposes of this chapter.~~

205 (c) A person who is an officer of a corporation, or a
206 member of a limited liability company classified as a
207 corporation for federal income tax purposes, and who performs
208 services for the corporation or limited liability company in
209 this state, regardless of whether those services are continuous,
210 is deemed an employee of the corporation or the limited
211 liability company during all of each week of his or her tenure
212 of office, regardless of whether he or she is compensated for
213 those services. Services are presumed to be rendered for the
214 corporation if ~~in cases in which~~ the officer is compensated by
215 means other than dividends upon shares of stock of the
216 corporation owned by him or her.

217 (d) A limited liability company shall be treated as having
218 the same status as it is classified for federal income tax
219 purposes. However, a single-member limited liability company
220 shall be treated as the employer.

221 (22) ~~(21)~~ "Employment" means a service subject to ~~this~~
222 ~~chapter under~~ s. 443.1216 which is performed by an employee for
223 his or her employer ~~the person employing him or her.~~

224 (23) ~~(22)~~ "Farm" includes stock, dairy, poultry, fruit, fur-
225 bearing animal, and truck farms, plantations, ranches,
226 nurseries, ranges, greenhouses or other similar structures used
227 primarily for the raising of agricultural or horticultural
228 commodities, and orchards.

229 (24) ~~(23)~~ "Fund" means the Unemployment Compensation Trust
230 Fund ~~created under this chapter,~~ into which all contributions
231 and reimbursements required under this chapter are deposited and
232 from which all benefits provided under this chapter are paid.

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233 (25)~~(24)~~ "High quarter" means the quarter in an
234 individual's base period in which the individual has the
235 greatest amount of wages paid, regardless of the number of
236 employers paying wages in that quarter.

237 (26)~~(25)~~ "Hospital" means an establishment ~~institution that~~
238 ~~is licensed as a hospital under chapter 395, certified, or~~
239 ~~approved by the Agency for Health Care Administration as a~~
240 ~~hospital.~~

241 (27)~~(26)~~ "Institution of higher education" means an
242 educational institution that:

243 (a) Admits as regular students only individuals having a
244 certificate of graduation from a high school, or the recognized
245 equivalent of a certificate of graduation;

246 (b) Is legally authorized in this state to provide a
247 program of education beyond high school;

248 (c) Provides an educational program that ~~for which it~~
249 awards a bachelor's or higher degree, or ~~provides a program~~ that
250 is acceptable for full credit toward a bachelor's or higher
251 degree; a program of postgraduate or postdoctoral studies; or a
252 program of training to prepare students for gainful employment
253 in a recognized occupation; and

254 (d) Is a public or other nonprofit institution.

255
256 The term includes each community college and state university in
257 this state, and any ~~each other~~ institution in this state
258 authorized ~~under s. 1005.03~~ to use the designation "college" or
259 "university-" under s. 1005.03.

260 (28)~~(27)~~ "Insured work" means employment for employers.

261 (29)~~(28)~~ "Leave of absence" means a temporary break in

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262 service to an employer, for a specified period of time, during
263 which the employing unit guarantees the same or a comparable
264 position to the worker at the expiration of the leave.

265 (30) "Member of the individual's immediate family" means an
266 individual's spouse, parent, or minor child.

267 (31)~~(29)~~ "Misconduct" includes, but is not limited to, the
268 following, which may not be construed in pari materia with each
269 other:

270 (a) Conduct demonstrating willful or wanton disregard of an
271 employer's interests and found to be a deliberate violation or
272 disregard of the standards of behavior which the employer has a
273 right to expect of his or her employee; or

274 (b) Carelessness or negligence to a degree or recurrence
275 that manifests culpability, wrongful intent, or evil design or
276 shows an intentional and substantial disregard of the employer's
277 interests or of the employee's duties and obligations to his or
278 her employer.

279 (32)~~(30)~~ "Monetary determination" means a determination of
280 whether and in what amount a claimant is eligible for benefits
281 based on the claimant's employment during the base period of the
282 claim.

283 (33)~~(31)~~ "Nonmonetary determination" means a determination
284 of the claimant's eligibility for benefits based on an issue
285 other than monetary entitlement and benefit overpayment.

286 (34)~~(32)~~ "Not in the course of the employer's trade or
287 business" means not promoting or advancing the trade or business
288 of the employer.

289 (35)~~(33)~~ "One-stop career center" means a service site
290 established and maintained as part of the one-stop delivery

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291 system under s. 445.009.

292 (36)~~(34)~~ "Pay period" means a ~~period of~~ 31 or fewer
293 consecutive days for which a payment or remuneration is
294 ordinarily made to the employee by the person employing him or
295 her.

296 (37)~~(35)~~ "Public employer" means:

297 (a) A state agency or political subdivision of the state;

298 (b) An instrumentality that is wholly owned by one or more
299 state agencies or political subdivisions of the state; or

300 (c) An instrumentality that is wholly owned by one or more
301 state agencies, political subdivisions, or instrumentalities of
302 the state and one or more state agencies or political
303 subdivisions of one or more other states.

304 (38)~~(36)~~ "Reasonable assurance" means a written or verbal
305 agreement, an agreement between an employer and a worker
306 understood through tradition within the trade or occupation, or
307 an agreement defined in an employer's policy.

308 (39)~~(37)~~ "Reimbursement" means a payment of money to the
309 Unemployment Compensation Trust Fund in lieu of a contribution
310 ~~which is~~ required under this chapter to finance unemployment
311 benefits.

312 (40)~~(38)~~ "Reimbursing employer" means an employer who is
313 liable for reimbursements in lieu of contributions made under
314 this chapter.

315 (41)~~(39)~~ "State" includes the states of the United States,
316 the District of Columbia, Canada, the Commonwealth of Puerto
317 Rico, and the Virgin Islands.

318 (42)~~(40)~~ "State law" means the unemployment insurance law
319 of any state, approved by the United States Secretary of Labor

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320 under s. 3304 of the Internal Revenue Code of 1954.

321 (43)~~(41)~~ "Tax collection service provider" or "service
322 provider" means the state agency providing unemployment tax
323 collection services under contract with the agency ~~for Workforce~~
324 ~~Innovation~~ through an interagency agreement pursuant to s.
325 443.1316.

326 (44)~~(42)~~ "Temporary layoff" means a job separation due to
327 lack of work which does not exceed 8 consecutive weeks and which
328 has a fixed or approximate return-to-work date.

329 (45)~~(43)~~ "Unemployment" or "unemployed" means:

330 (a) An individual is "totally unemployed" in any week
331 during which he or she does not perform any services and for
332 which earned income is not payable to him or her. An individual
333 is "partially unemployed" in any week of less than full-time
334 work if the earned income payable to him or her for that week is
335 less than his or her weekly benefit amount. The agency ~~for~~
336 ~~Workforce Innovation~~ may adopt rules prescribing distinctions in
337 the procedures for unemployed individuals based on total
338 unemployment, part-time unemployment, partial unemployment of
339 individuals attached to their regular jobs, and other forms of
340 short-time work.

341 (b) An individual's week of unemployment commences only
342 after ~~his or her~~ registration with the agency ~~for Workforce~~
343 ~~Innovation~~ as required in s. 443.091, except as the agency may
344 otherwise prescribe by rule.

345 (46)~~(44)~~ "Wages" means remuneration ~~subject to this chapter~~
346 under s. 443.1217.

347 (47)~~(45)~~ "Week" means ~~a period of~~ 7 consecutive days as
348 defined in agency ~~the rules of the Agency for Workforce~~

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349 ~~Innovation~~. The agency ~~for Workforce Innovation~~ may by rule
350 prescribe that a week is deemed to be "in," "within," or
351 "during" the benefit year that contains the greater part of the
352 week.

353 Section 2. Paragraphs (a) through (d) of subsection (1) of
354 section 443.091, Florida Statutes, are amended to read:

355 443.091 Benefit eligibility conditions.—

356 (1) An unemployed individual is eligible to receive
357 benefits for any week only if the Agency for Workforce
358 Innovation finds that:

359 (a) She or he has made a claim for benefits for that week
360 in accordance with the rules adopted by the agency ~~for Workforce~~
361 ~~Innovation~~.

362 (b) She or he has registered with the agency for work and
363 subsequently reports to the one-stop career center as directed
364 by the regional workforce board for reemployment services. This
365 requirement does not apply to persons who are:

- 366 1. Non-Florida residents;
367 2. On a temporary layoff, ~~as defined in s. 443.036(42)~~;
368 3. Union members who customarily obtain employment through
369 a union hiring hall; or
370 4. Claiming benefits under an approved short-time
371 compensation plan as provided in s. 443.1116.

372 (c) To make continued claims for benefits, she or he is
373 reporting to the agency in accordance with its rules. These
374 rules may not conflict with s. 443.111(1)(b), including the
375 requirement that each claimant continue to report regardless of
376 any pending appeal relating to her or his eligibility or
377 disqualification for benefits.

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378 (d) She or he is able to work and is available for work. In
379 order to assess eligibility for a claimed week of unemployment,
380 the agency shall develop criteria to determine a claimant's
381 ability to work and availability for work. However:

382 1. Notwithstanding any provision of this paragraph, an
383 otherwise eligible individual may not be found ineligible for
384 benefits solely because he or she is available for only part-
385 time work. As used in this subparagraph, the term "available for
386 only part-time work" means that the individual is available for
387 the number of weekly hours that are comparable to the number of
388 hours the individual worked during the majority of the base
389 period.

390 ~~2.1.~~ Notwithstanding any other provision of this paragraph
391 or paragraphs (b) and (e), an otherwise eligible individual may
392 not be denied benefits for any week because she or he is in
393 training with the approval of the agency, or by reason of s.
394 443.101(2) relating to failure to apply for, or refusal to
395 accept, suitable work. Training may be approved by the agency in
396 accordance with criteria prescribed by rule. A claimant's
397 eligibility during approved training is contingent upon
398 satisfying eligibility conditions prescribed by rule.

399 ~~3.2.~~ Notwithstanding any other provision of this chapter,
400 an otherwise eligible individual who is in training approved
401 under s. 236(a)(1) of the Trade Act of 1974, as amended, may not
402 be determined ineligible or disqualified for benefits due to her
403 or his enrollment in such training or because of leaving work
404 that is not suitable employment to enter such training. As used
405 in this subparagraph, the term "suitable employment" means work
406 of a substantially equal or higher skill level than the worker's

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407 past adversely affected employment, as defined for purposes of
408 the Trade Act of 1974, as amended, the wages for which are at
409 least 80 percent of the worker's average weekly wage as
410 determined for purposes of the Trade Act of 1974, as amended.

411 ~~4.3.~~ Notwithstanding any other provision of this section,
412 an otherwise eligible individual may not be denied benefits for
413 any week because she or he is before any state or federal court
414 pursuant to a lawfully issued summons to appear for jury duty.

415 Section 3. Paragraph (a) of subsection (1) and paragraph
416 (a) of subsection (2) of section 443.101, Florida Statutes, are
417 amended to read:

418 443.101 Disqualification for benefits.—An individual shall
419 be disqualified for benefits:

420 (1) (a) For the week in which he or she has voluntarily left
421 work without good cause attributable to his or her employing
422 unit or in which the individual has been discharged by the
423 employing unit for misconduct connected with his or her work,
424 based on a finding by the agency ~~for Workforce Innovation~~. As
425 used in this paragraph, the term "work" means any work, whether
426 full-time, part-time, or temporary.

427 1. Disqualification for voluntarily quitting continues for
428 the full period of unemployment next ensuing after the
429 individual has left ~~his or her full-time, part-time, or~~
430 ~~temporary~~ work voluntarily without good cause and until the
431 individual has earned income equal to or greater than ~~in excess~~
432 ~~of~~ 17 times his or her weekly benefit amount. ~~As used in this~~
433 ~~subsection, the term "good cause" includes only that cause~~
434 ~~attributable to the employing unit or which consists of the~~
435 ~~individual's illness or disability requiring separation from his~~

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436 ~~or her work.~~ Any other disqualification may not be imposed. An
437 individual is not disqualified ~~under this subsection~~ for
438 voluntarily leaving temporary work to return immediately when
439 called to work by the permanent employing unit that temporarily
440 terminated his or her work within the previous 6 calendar
441 months, or. ~~An individual is not disqualified under this~~
442 ~~subsection~~ for voluntarily leaving work to relocate as a result
443 of his or her military-connected spouse's permanent change of
444 station orders, activation orders, or unit deployment orders.

445 2. Disqualification for being discharged for misconduct
446 connected with his or her work continues for the full period of
447 unemployment next ensuing after having been discharged and until
448 the individual is reemployed and has earned income of at least
449 17 times his or her weekly benefit amount and for not more than
450 52 weeks that immediately follow that week, as determined by the
451 agency in each case according to the circumstances ~~in each case~~
452 or the seriousness of the misconduct, under the agency's rules
453 for determining ~~adopted for determinations of~~ disqualification
454 for benefits for misconduct.

455 3. If an individual has provided notification to the
456 employing unit of his or her intent to voluntarily leave work
457 and the employing unit discharges the individual for reasons
458 other than misconduct before the date the voluntary quit was to
459 take effect, the individual, if otherwise entitled, shall
460 receive benefits from the date of the employer's discharge until
461 the effective date of his or her voluntary quit.

462 4. If an individual is notified by the employing unit of
463 the employer's intent to discharge the individual for reasons
464 other than misconduct and the individual quits without good

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465 ~~cause, as defined in this section,~~ before the date the discharge
466 was to take effect, the claimant is ineligible for benefits
467 pursuant to s. 443.091(1)(d) for failing to be available for
468 work for the week or weeks of unemployment occurring before the
469 effective date of the discharge.

470 5. As used in this paragraph, the term "good cause" means:

471 a. Cause attributable to the employing unit or an illness
472 or disability that requires separation from work;

473 b. Domestic violence, as defined in s. 741.28, and verified
474 by reasonable and confidential documentation that causes the
475 individual to reasonably believe that continued employment will
476 jeopardize the individual's safety and the safety of a member of
477 his or her immediate family;

478 c. Illness or disability of a member of the individual's
479 immediate family; or

480 d. The individual's need to accompany her or his spouse if
481 the spouse's relocation resulted from a change in the spouse's
482 employment and the relocation makes it impractical for the
483 individual to commute to her or his workplace.

484 (2) If the Agency for Workforce Innovation finds that the
485 individual has failed without good cause to apply for available
486 suitable work when directed by the agency or the one-stop career
487 center, to accept suitable work when offered to him or her, or
488 to return to the individual's customary self-employment when
489 directed by the agency, the disqualification continues for the
490 full period of unemployment next ensuing after he or she failed
491 without good cause to apply for available suitable work, to
492 accept suitable work, or to return to his or her customary self-
493 employment, under this subsection, and until the individual has

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494 earned income at least 17 times his or her weekly benefit
495 amount. The Agency for Workforce Innovation shall by rule adopt
496 criteria for determining the "suitability of work," as used in
497 this section. The Agency for Workforce Innovation in developing
498 these rules shall consider the duration of a claimant's
499 unemployment in determining the suitability of work and the
500 suitability of proposed rates of compensation for available
501 work. Further, after an individual has received 25 weeks of
502 benefits in a single year, suitable work is a job that pays the
503 minimum wage and is 120 percent or more of the weekly benefit
504 amount the individual is drawing.

505 (a) In determining whether or not ~~any~~ work is suitable for
506 an individual, the agency ~~for Workforce Innovation~~ shall
507 consider the degree of risk involved to his or her health,
508 safety, and morals; the individual's ~~his or her~~ physical
509 fitness, and prior training, ~~the individual's~~ experience, and
510 prior earnings, ~~his or her~~ length of unemployment, and
511 prospects for securing local work in his or her customary
512 occupation; and the distance of the available work from his or
513 her residence. An unemployed individual may not be disqualified
514 for benefits solely because he or she is available for only
515 part-time work. As used in this paragraph, the term "available
516 for part-time work" means that the individual is available for
517 the number of weekly hours that are comparable to the number of
518 hours the individual worked during the majority of the base
519 period.

520 Section 4. Paragraph (a) of subsection (1) and paragraph
521 (f) of subsection (13) of section 443.1216, Florida Statutes,
522 are amended to read:

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523 443.1216 Employment.—Employment, as defined in s. 443.036,
524 is subject to this chapter under the following conditions:

525 (1) (a) The employment ~~subject to this chapter~~ includes a
526 service performed, including a service performed in interstate
527 commerce, by:

528 1. An officer of a corporation.

529 2. An individual who, under the usual common-law rules
530 applicable for ~~in~~ determining the employer-employee
531 relationship, is an employee. However, if ~~whenever~~ a client who
532 ~~as defined in s. 443.036(18), which~~ would otherwise be
533 designated as an employing unit has contracted with an employee
534 leasing company to supply it with workers, those workers are
535 considered employees of the employee leasing company. An
536 employee leasing company may lease corporate officers of the
537 client to the client and other workers to the client, except as
538 prohibited by regulations of the Internal Revenue Service.
539 Employees of an employee leasing company must be reported under
540 the employee leasing company's tax identification number and
541 contribution rate for work performed for the employee leasing
542 company.

543 a. In addition to any other report required to be filed by
544 law, an employee leasing company shall submit a report to the
545 Labor Market Statistics Center within the agency ~~for Workforce~~
546 ~~Innovation~~ which includes each client establishment and each
547 establishment of the employee leasing company, or as otherwise
548 directed by the agency. The report must include the following
549 information for each establishment:

550 (I) The trade or establishment name;

551 (II) The former unemployment compensation account number,

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552 if available;

553 (III) The former federal employer's identification number

554 (FEIN), if available;

555 (IV) The industry code recognized and published by the

556 United States Office of Management and Budget, if available;

557 (V) A description of the client's primary business activity

558 in order to verify or assign an industry code;

559 (VI) The address of the physical location;

560 (VII) The number of full-time and part-time employees who

561 worked during, or received pay that was subject to unemployment

562 compensation taxes for, the pay period including the 12th of the

563 month for each month of the quarter;

564 (VIII) The total wages subject to unemployment compensation

565 taxes paid during the calendar quarter;

566 (IX) An internal identification code to uniquely identify

567 each establishment of each client;

568 (X) The month and year that the client entered into the

569 contract for services; and

570 (XI) The month and year that the client terminated the

571 contract for services.

572 b. The report shall be submitted electronically or as in a

573 ~~manner~~ otherwise prescribed by the agency and for Workforce

574 ~~Innovation~~ in the format specified by the Bureau of Labor

575 Statistics of the United States Department of Labor for its

576 Multiple Worksite Report for Professional Employer

577 Organizations. The report must be provided quarterly to the

578 Labor Market Statistics Center within the agency ~~for Workforce~~

579 ~~Innovation~~, or as otherwise directed by the agency, and must be

580 filed by the last day of the month immediately following the end

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581 of the calendar quarter. The information required in sub-sub-
582 subparagraphs a.(X) and (XI) need be provided only in the
583 quarter in which the contract to which it relates was entered
584 into or terminated. The sum of the employment data and the sum
585 of the wage data in the ~~this~~ report must match the employment
586 and wages reported in the unemployment compensation quarterly
587 tax and wage report. A report is not required for any calendar
588 quarter preceding the third calendar quarter of 2010.

589 c. The agency ~~for Workforce Innovation~~ shall adopt rules as
590 necessary to administer this subparagraph, and may administer,
591 collect, enforce, and waive the penalty imposed by s.
592 443.141(1)(b) for the report required by this subparagraph.

593 d. For the purposes of this subparagraph, the term
594 "establishment" means any location where business is conducted
595 or where services or industrial operations are performed.

596 3. An individual other than an individual who is an
597 employee under subparagraph 1. or subparagraph 2., who performs
598 services for remuneration for any person:

599 a. As an agent-driver or commission-driver engaged in
600 distributing meat products, vegetable products, fruit products,
601 bakery products, beverages other than milk, or laundry or
602 drycleaning services for his or her principal.

603 b. As a traveling or city salesperson engaged on a full-
604 time basis in the solicitation on behalf of, and the
605 transmission to, his or her principal of orders from
606 wholesalers, retailers, contractors, or operators of hotels,
607 restaurants, or other similar establishments for merchandise for
608 resale or supplies for use in their business operations. This
609 sub-subparagraph does not apply to an agent-driver, ~~or~~ a

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610 commission-driver, or ~~and does not apply to~~ sideline sales
611 activities performed on behalf of a person other than the
612 salesperson's principal.

613 4. The services described in subparagraph 3. are employment
614 subject to this chapter only if:

615 a. The contract of service contemplates that substantially
616 all of the services are to be performed personally by the
617 individual;

618 b. The individual does not have a substantial investment in
619 facilities used in connection with the services, other than
620 facilities used for transportation; and

621 c. The services are not in the nature of a single
622 transaction that is not part of a continuing relationship with
623 the person for whom the services are performed.

624 (13) The following are exempt from coverage under this
625 chapter:

626 (f) Service performed in the employ of a public employer ~~as~~
627 ~~defined in s. 443.036~~, except as provided in subsection (2), and
628 service performed in the employ of an instrumentality of a
629 public employer as described in s. 443.036(37)(b) or (c) ~~s.~~
630 ~~443.036(35)(b) or (c)~~, to the extent that the instrumentality is
631 immune under the United States Constitution from the tax imposed
632 by s. 3301 of the Internal Revenue Code for that service.

633 Section 5. Paragraph (f) of subsection (3) of section
634 443.131, Florida Statutes, is amended to read:

635 443.131 Contributions.—

636 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
637 EXPERIENCE.—

638 (f) *Transfer of employment records.*—

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639 1. For the purposes of this subsection, two or more
640 employers who are parties to a transfer of business or the
641 subject of a merger, consolidation, or other form of
642 reorganization, effecting a change in legal identity or form,
643 are deemed a single employer and are considered to be one
644 employer with a continuous employment record if the tax
645 collection service provider finds that the successor employer
646 continues to carry on the employing enterprises of all of the
647 predecessor employers, ~~and that the successor employer~~ has paid
648 all contributions required of and due from all of the
649 predecessor employers, ~~and~~ has assumed liability for all
650 contributions that may become due from all of the predecessor
651 employers. ~~In addition,~~ An employer may not be considered a
652 successor under this subparagraph if the employer purchases a
653 company with a lower rate into which employees with job
654 functions unrelated to the business endeavors of the predecessor
655 are transferred for the purpose of acquiring the low rate and
656 avoiding payment of contributions. ~~As used in this paragraph,~~
657 Notwithstanding s. 443.036(15) ~~s. 443.036(14)~~, the term
658 "contributions," as used in this paragraph, means all
659 indebtedness to the tax collection service provider, including,
660 but not limited to, interest, penalty, collection fee, and
661 service fee.

662 2. A successor employer must accept the transfer of all of
663 the predecessor employers' employment records within 30 days
664 after the date of the official notification of liability by
665 succession. If a predecessor employer has unpaid contributions
666 or outstanding quarterly reports, the successor employer must
667 pay the total amount with certified funds within 30 days after

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668 the date of the notice listing the total amount due. After the
669 total indebtedness is paid, the tax collection service provider
670 shall transfer the employment records of all of the predecessor
671 employers to the successor employer's employment record. The tax
672 collection service provider shall determine the contribution
673 rate of the combined successor and predecessor employers upon
674 the transfer of the employment records, as prescribed by rule,
675 in order to calculate any change in the contribution rate
676 resulting from the transfer of the employment records.

677 ~~3.2.~~ Regardless of whether a predecessor employer's
678 employment record is transferred to a successor employer under
679 this paragraph, the tax collection service provider shall treat
680 the predecessor employer, if he or she subsequently employs
681 individuals, as an employer without a previous employment record
682 or, if his or her coverage is terminated under s. 443.121, as a
683 new employing unit.

684 ~~4.3.~~ The state agency providing unemployment tax collection
685 services may adopt rules governing the partial transfer of
686 experience rating when an employer transfers an identifiable and
687 segregable portion of his or her payrolls and business to a
688 successor employing unit. As a condition of each partial
689 transfer, these rules must require the following to be filed
690 with the tax collection service provider: an application by the
691 successor employing unit, an agreement by the predecessor
692 employer, and the evidence required by the tax collection
693 service provider to show the benefit experience and payrolls
694 attributable to the transferred portion through the date of the
695 transfer. These rules must provide that the successor employing
696 unit, if not an employer subject to this chapter, becomes an

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697 employer as of the date of the transfer and that the transferred
698 portion of the predecessor employer's employment record is
699 removed from the employment record of the predecessor employer.
700 For each calendar year after the date of the transfer of the
701 employment record in the records of the tax collection service
702 provider, the service provider shall compute the contribution
703 rate payable by the successor employer or employing unit based
704 on his or her employment record, combined with the transferred
705 portion of the predecessor employer's employment record. These
706 rules may also prescribe what contribution rates are payable by
707 the predecessor and successor employers for the period between
708 the date of the transfer of the transferred portion of the
709 predecessor employer's employment record in the records of the
710 tax collection service provider and the first day of the next
711 calendar year.

712 5.4. This paragraph does not apply to an employee leasing
713 company and client contractual agreement ~~as defined in s.~~
714 ~~443.036.~~ The tax collection service provider shall, if the
715 contractual agreement is terminated or the employee leasing
716 company fails to submit reports or pay contributions as required
717 by the service provider, treat the client as a new employer
718 without previous employment record unless the client is
719 otherwise eligible for a variation from the standard rate.

720 Section 6. This act shall take effect July 1, 2011.